

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2021-277-C - ORDER NO. 2021-817  
DECEMBER 21, 2021

IN RE: Application of ExteNet Systems, Inc. and	)	ORDER APPROVING
ExteNet Asset Entity, LLC for Approval to	)	TRANSFER OF
Transfer Customers and Certain Assets	)	CUSTOMERS AND
	)	CERTAIN ASSETS

**I. INTRODUCTION**

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the Joint Application of ExteNet Asset Entity, LLC (“EAE”) and ExteNet Systems, Inc. (“ESI”) (together, the “Applicants”). The Applicants request approval for EAE to acquire certain assets, including customer contracts and related telecommunications network infrastructure from its indirect parent company, ESI, (the “Transaction”) pursuant to S.C. Code Ann. Section 58-9-310 (2015) and the rules and regulations of the Commission.

**II. FACTS AND PROCEDURAL HISTORY**

The Clerk’s Office of the Commission instructed the Applicants to publish a Notice of Filing (“Notice”) in newspapers of general circulation in the areas of the state affected by the Application. The Notice provided information regarding the nature of the proceeding and advised any person desiring to participate as a party of record to file a Petition to Intervene on or before October 18, 2021. The Applicants complied with the

Commission's instruction and provided proof of publication of the Notice of Filing. No petitions to intervene were received.

The Office of Regulatory Staff ("ORS"), a party of record pursuant to section 58-4-10 of the South Carolina Code of Laws (Supp. 2021), filed a Notice of Appearance of C. Lessie Hammonds, Esquire, and Donna L. Rhaney, Esquire, on September 8, 2021. In a letter dated November 24, 2021, ORS stated it supported the relief sought in the Application and did not intend to file testimony in the docket.

A hearing was held on November 30, 2021, at 2:00 P.M. before the full Commission; Chairman Justin T. Williams presided. The Applicants were represented by John J. Pringle, Jr., Esquire. The ORS did not make an appearance.

At the start of the hearing, counsel for the Applicant moved, pursuant to S.C. Code Ann. Regs. 103-840, to consolidate the proceeding with Docket No. 2021-276-C, EAE's application to provide local exchange and interexchange services in South Carolina. Chairman Williams granted the motion.

### **III. EVIDENCE OF RECORD**

Brian Kirk, Deputy General Counsel of ESI, appeared via video conference and testified in support of the Application. According to Mr. Kirk, the Transaction is part of a plan to expand the ExteNet family of authorized operating companies to better align their businesses with current and future customer focus and growth and to obtain additional debt financing. (Kirk Direct Testimony, p. 2, lines 17-19.) ESI is already authorized to provide

intrastate local exchange and interexchange telecommunications services in South Carolina, pursuant to authority granted in Docket No. 2012-207-C<sup>1</sup>.

As a result of the Transaction, certain contracts and related network assets will be assigned from ESI to EAE, including customer accounts and contracts, antennas, fiber, and other telecommunications equipment. (Kirk Direct Testimony, p. 2, lines 19-21.) Following the Transaction and the grant of EAE's Certification Application, EAE will primarily provide service and networks targeted to WSPs. (Kirk Direct Testimony, p. 2, lines 22-23.) ESI will continue to operate under its existing certificate and will continue to develop, sell, and construct new distributed networks, along with providing "lit" services to commercial users and new services. (Kirk Direct Testimony, p. 2, line 23 – p. 3, line 3.)

According to Mr. Kirk, to assure seamless and uninterrupted service, all of the customers assigned to EAE will continue to receive service from EAE under the same rates, terms and conditions of services as governed their existing contracts with ESI. (Kirk Direct Testimony, p. 3, lines 7-9.) EAE will offer point-to-point telecommunications services to WSPs, other telecommunications carriers and communications providers. (Kirk Direct Testimony, p. 3, lines 9-11.) Future changes in the rates, terms, and conditions of service to the affected customers will be undertaken pursuant to customer contracts and the applicable federal and state notice and tariff requirements. (Kirk Direct Testimony, p. 3, lines 11-13.)

According to the testimony, EAE will market and perform its services under the "ExteNet" brand with which customers are familiar, will provide existing customers with

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<sup>1</sup> Order No. 2012-718.

the same rates and terms of service, and will operate through the same customer service, technical, operational, and managerial personnel. (Kirk Direct Testimony, p. 3, lines 14-18.) Therefore, the Transaction will not cause confusion or disruption to customers. (Kirk Direct Testimony, p. 3, line 14.) There are also distinct public interest benefits of the Transaction. (Kirk Direct Testimony, p. 3, line 20.)

According to Mr. Kirk, the Transaction will result in the assignment of customers and assets to an affiliated company that will continue to provide telecommunications services to such assigned customers without interruption. (Kirk Direct Testimony, p. 3, lines 20-22.) Following grant of requested authority, EAE will offer services at the same rates and on the same terms and conditions as currently provided under the “ExteNet” brand (subject to future changes pursuant to applicable law and contract provisions). (Kirk Direct Testimony, p. 3, line 22 – p. 4, 2.)

Given that EAE and ESI share the same management team, customers will benefit from that team’s knowledge and experience in the South Carolina market. (Kirk Direct Testimony, p. 4, lines 2-4.) EAE will operate its networks and offer services designed to meet the individual needs of its WSP, other telecommunications carrier, and communications provider customers in providing high quality services in an efficient and cost-effective manner. (Kirk Direct Testimony, p. 4, lines 4-7.)

### **III. APPLICABLE LAW**

The Commission has the authority to approve certain transactions of telephone utilities in South Carolina, as established in Section 58-9-310 of the South Carolina Code of Laws. The South Carolina Code provides:

No telephone utility, without the approval of the Commission after due hearing and compliance with all other existing requirements of the laws of the State in relation thereto, may sell, transfer, lease, consolidate, or merge its property, powers, franchises, or privileges or any of them; provided, however, that a telephone cooperative association may acquire or incorporate a subsidiary corporation or a subsidiary cooperative association without the approval of the Commission.

S.C. Code Ann. § 58-9-310.

## **VI. FINDINGS OF FACT**

After review of all the evidence presented in this docket, the Commission makes the following findings of fact:

1. The Commission finds that the Transaction, under which ESI will transfer certain customers and assets to EAE, is in the public interest. As described in Mr. Kirk's testimony, the Transaction will provide benefits to ESI, EAE, and the ExteNet family of operating companies, and will have no adverse effect on the customers of the Applicants.

S.C. Code Ann. § 58-9-310.

2. The Commission finds that the Company met the Notice requirements and no parties intervened in the proceeding. S.C. Code Ann. § 58-3-230.

3. The Commission finds that this transaction is being made in a seamless fashion that will cause no changes in customers' rates, terms, and conditions of service and will be made at no charge to customers as they transition to EAE under the ExteNet brand, with which they are already familiar.

4. The Commission finds that ESI will continue to operate under its existing certificate.

5. The Commission finds that ORS supports the relief requested in the Application.

**VII. CONCLUSIONS OF LAW**

1. The Commission concludes that ESI and EAE should be authorized to effectuate the Transaction, for the reasons set out herein.

**VIII. ORDERING PROVISIONS**

**IT IS THEREFORE ORDERED:**

1. The Application seeking approval for EAE to acquire certain assets, including customer contracts and related telecommunications network infrastructure from its indirect parent, ESI, is approved, and ESI is authorized to transfer to EAE those certain assets pursuant to the Transaction.

2. This Order shall remain in full force and effect until further order of the Commission.

**BY ORDER OF THE COMMISSION:**



Justin T. Williams, Chairman  
Public Service Commission of  
South Carolina